

TAM:WAB:caz

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA)	Criminal No. 1:CR-01-146-02
)	(Judge Caldwell)
v.)	(Electronically filed)
)	
KEITH WALKER)	

MOTION FOR EXTENSION OF TIME

AND NOW this 12th day of January 2005, comes Thomas A. Marino, United States Attorney for the Middle District of Pennsylvania, by William A. Behe, Assistant United States Attorney, who files this Motion for Extension of Time and, in support thereof, alleges as follows:

1. The United States has been ordered to respond to the defendant's "Motion for Definitive Determination of Amount and Timing of Restitution Payments During Incarceration."

2. In order to respond to said motion, the United States will need to retrieve the case file from archives in order to review the Judgment and Commitment Order, as well as the Plea Agreement.

3. Judge Muir, in accordance with an unpublished Opinion of the Third Circuit Court of Appeals, recently amended the restitution part of a sentence imposed on a defendant and ordered that "the restitution imposed in this case shall be due immediately, shall be paid through the Clerk, U.S. District Court for disbursement to the

Bureau of Prisons, and is payable during the period of incarceration with any balance to be paid within two (2) years of release from custody." (United States v. Green, 4:01-CR-397-01, Order dated October 29, 2004). This amended Order was affirmed in an unpublished Opinion of the Third Circuit issued December 1, 2004. (United States v. Green, 2004 WL 2731495).

4. This court's sentence which included an Order of Restitution appears to be substantially similar to that entered in the Green case. However, without the J&C the precise language is unknown.

5. Additionally, the United States routinely includes a paragraph in its Plea Agreements whereby a defendant, if sentenced to imprisonment, agrees that if restitution is ordered, the Bureau of Prisons can collect up to 50% of the defendant's prison salary and apply those amounts on the outstanding restitution order. However, until the file is retrieved from archives it remains to be seen whether or not this provision, although not dispositive of the issue, is contained in the plea agreement.

WHEREFORE, it is respectfully requested that an extension of time of 30 days be granted and that the response of the United States be due on or before February 11, 2005.

Respectfully submitted,

THOMAS A. MARINO
UNITED STATES ATTORNEY

/s/ WILLIAM A. BEHE

WILLIAM A. BEHE
Assistant U.S. Attorney
228 Walnut Street
P.O. Box 11754
Harrisburg, PA 17108
717/221-4482 (Office)
717/221-2246 (Fax)
WILLIAM.BEHE@USDOJ.GOV
Bar No. PA-32284

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA)	Criminal No. 1:CR-01-146-02
)	(Judge Caldwell)
v.)	
)	
KEITH WALKER)	

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion to be competent to serve papers.

That this 12th day of January 2005, she served a copy of the attached

MOTION FOR EXTENSION OF TIME

by placing said copy in a postpaid envelope addressed to the person hereinafter named, at the place and address stated below, which is the last known address, and by depositing said envelope and contents in the United States Mail at Harrisburg, Pennsylvania.

ADDRESSEE(S):

Keith Walker
#60314-053
FCI-RAYBROOK
P.O. Box 9007
Raybrook, NY 12977

/s/ CYNTHIA A. ZIMMERMAN

CYNTHIA A. ZIMMERMAN
Legal Assistant